

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

***Return Date: March 24, 2009***  
***Time: 11:00 a.m.***

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In re:

EUGENE R. HARRINGTON

Chapter 13  
Case No.: 109-40233-608

Debtor(s)

**NOTICE OF MOTION**

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SIRS / MADAMS:

**PLEASE TAKE NOTICE**, that MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, will move before the Honorable Carla E. Craig, United States Bankruptcy Judge, on the 24<sup>th</sup> day of MARCH, 2009 at 11:00AM, at the United States Bankruptcy Court located at 271 Cadman Plaza East – Courtroom 3529, Brooklyn, New York 11201, for an Order pursuant to 11 U.S.C. §§ 521 & 1307(c), dismissing this case by reason of the debtor(s)' failure to submit monthly pre-confirmation payments, failure to provide and/or file documents, failure to be examined at §341 meeting of creditors, and for such other and further relief as this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE**, that answering papers, if any, shall be filed with the Court and served on the undersigned no later than five (5) days prior to the return date of this motion.

Dated: Melville, New York  
February 26, 2009

Yours, etc.

MICHAEL J. MACCO  
Chapter 13 Trustee  
135 Pinelawn Road, Suite 120 South  
Melville, New York 11747  
(631) 549-7900

To: *Office of the United States Trustee  
United States Bankruptcy Court  
271 Cadman Plaza East, Suite 4529  
Brooklyn, NY 11201*

*Wells Fargo Bank, N.A.  
c/o Steven J. Baum, P.C.  
220 Northpointe Parkway, Ste. G  
Amherst, NY 14228*

*Eugene R. Harrington  
87 Hales Avenue  
Staten Island, NY 10312*

*Pro-Se Debtor*

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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**tmm1634**

In re:

EUGENE R. HARRINGTON

Chapter 13

Case No.: 109-40233-608

Debtor(s)

**APPLICATION**

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TO THE HONORABLE CARLA E. CRAIG, UNITED STATES BANKRUPTCY JUDGE:

MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, respectfully represents, as follows:

1. The debtor(s) filed a petition under the provisions of 11 U.S.C. Chapter 13 on January 15, 2009, and thereafter MICHAEL J. MACCO was duly appointed and has qualified as Trustee.
2. As of the date of this motion, the debtor(s) has failed to submit any monthly pre-confirmation payments to the Trustee.
3. Furthermore, as of this date the debtor has failed to provide the Trustee with copies of pay statements from employer for sixty (60) day period preceding filing; copies of previous year's State and Federal Tax Returns; all filings required under Section 521; and all mandatory disclosure documentation as set forth in Local Bankruptcy Rule 2003-1.
4. Moreover, the debtor failed to be examined at the initial §341 meeting of creditors, held on February 25, 2009 at 10:15 a.m.
5. This is a material default and is prejudicial to the rights of the creditors of the debtor.

**WHEREFORE**, the Trustee prays for an Order pursuant to the provisions of 11 U.S.C. §§521 & 1307(c), dismissing this case, and for such other and further relief as this Court deems just and proper.

Dated: Melville, New York  
February 26, 2009

/s/ Michael J. Macco  
Michael J. Macco, Chapter 13 Trustee  
135 Pinelawn Road – Suite 120 South  
Melville, New York 11747  
(631) 549-7900

STATE OF NEW YORK     )  
COUNTY OF SUFFOLK    )     ss.:

LONI BRAGIN, being duly sworn deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Suffolk County, New York.

On February 26, 2009 deponent served the within:

**NOTICE OF MOTION AND APPLICATION**

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

*Office of the United States Trustee  
United States Bankruptcy Court  
271 Cadman Plaza East, Suite 4529  
Brooklyn, NY 11201*

*Eugene R. Harrington  
87 Hales Avenue  
Staten Island, NY 10312*

*Pro-Se Debtor*

*Wells Fargo Bank, N.A.  
c/o Steven J. Baum, P.C.  
220 Northpointe Parkway, Ste. G  
Amherst, NY 14228*

**/s/ Loni Bragin**  
LONI BRAGIN

Sworn to before me this  
26<sup>th</sup> day of FEBRUARY, 2009

**/s/ Janine M. Zarrilli**

NOTARY PUBLIC

Janine M. Zarrilli  
Notary Public, State of New York  
No. 01ZA5084708  
Qualified in Nassau County  
Commission Expires September 8, 2009